

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

NORTHERN DIVISION

TINA LOUISE SMITH,)	No. ED92464
)	
Respondent,)	Appeal from the Circuit Court
)	of Marion County
vs.)	
)	
CITY OF HANNIBAL,)	Honorable Robert M. Clayton
)	
Appellant.)	FILED: November 24, 2009

The Circuit Court of Marion County ("trial court") entered judgment on a jury verdict in favor of Tina Louise Smith ("Plaintiff"), wherein the jury assessed 70% fault to the City of Hannibal ("City") and 30% fault to Plaintiff. The City appeals from the trial court's order granting Plaintiff's motion for a new trial.

AFFIRMED

Northern Division Holds:

The trial court did not abuse its discretion in granting Plaintiff's motion for a new trial on the grounds that the jury's verdict was against the weight of the evidence. The trial court retains nearly unfettered discretion to grant the motion on that basis, and Plaintiff properly preserved the issue for review when she included it in her motion for a new trial.

Opinion by: Roy L. Richter, J. Glenn A. Norton, J., concurs
Kenneth M. Romines, C.J., dissents in separate opinion

Attorneys for Appellant: James E. Godfrey, Jr., Katherine M. Cuneo

Attorneys for Respondent: Branson L. Wood III

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
